

JS 44 (Rev. 12/07, NJ 5/08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

JEAN SCHRADER

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known) \_\_\_\_\_

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input checked="" type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights   | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |   |   |

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

Explanation:

12/30/11  
DATE/s/ Craig Thor Kimmel  
SIGNATURE OF ATTORNEY OF RECORD

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3101 SW Watson Court, Port St. Lucie, FL 34953  
 Address of Defendant: 507 Prudential Road, Horsham, PA 19044

Place of Accident, Incident or Transaction: \_\_\_\_\_  
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
 Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
 Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
 Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
 Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 USC §1692  
 (Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
 (Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:  
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;  
☐ Relief other than monetary damages is sought.

DATE: 12/30/11 /s/Craig Thor Kimmel 57100  
 Attorney-at-Law Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/30/11 /s/Craig Thor Kimmel 57100  
 Attorney-at-Law Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

*Jean Schrader*

CIVIL ACTION

v.

*NCO Financial Systems, Inc.*

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☒ (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

12/30/11  
Date

Craig Thor Kimmel  
Attorney-at-law

Jean Schrader  
Attorney for

215-540-8888

Telephone

877-788-2864

FAX Number

kimmel@creditlaw.com

E-Mail Address

1  
2 **IN THE UNITED STATES DISTRICT COURT**  
3 **FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

4 JEAN SCHRADER, )  
5 )  
6 Plaintiff )  
7 v. ) **Case No.:**  
8 NCO FINANCIAL SYSTEMS, INC., ) **COMPLAINT AND DEMAND FOR**  
9 Defendant ) **JURY TRIAL**  
10 ) **(Unlawful Debt Collection Practices)**

11 **COMPLAINT**

12  
13 JEAN SCHRADER (“Plaintiff”), by and through her attorneys, KIMMEL &  
14 SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS,  
15 INC., (“Defendant”):

16  
17 **INTRODUCTION**

18 1. Count I of Plaintiff’s Complaint is based on the Fair Debt Collection  
19 Practices Act, 15 U.S.C. § 1692 *et seq.* (FDCPA).

20 **JURISDICTION AND VENUE**

21  
22 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),  
23 which states that such actions may be brought and heard before “any appropriate  
24 United States district court without regard to the amount in controversy,” and 28  
25

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3  
4 3. Defendant conducts business and has an office in the Commonwealth  
5 of Pennsylvania, and therefore, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

7  
8 **PARTIES**

9 5. Plaintiff is a natural person residing in Port St. Lucie, Florida 34953.

10 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §  
11 1692a(3).

12 7. Also, Plaintiff is a person granted a cause of action under the  
13 FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS  
14 18687 (E.D. Pa. Dec. 22, 2000).

15  
16 8. Defendant is a national debt collection company with its corporate  
17 headquarters located at 507 Prudential Road, Horsham, Pennsylvania, 19044-  
18 2308.

19  
20 9. Defendant is a debt collector as that term is defined by 15 U.S.C. §  
21 1692a(6), and sought to collect a consumer debt from Plaintiff.

22  
23 10. Defendant acted through its agents, employees, officers, members,  
24 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
25 representatives, and insurers.

**FACTUAL ALLEGATIONS**

11. At all pertinent times hereto, Defendant was hired to collect a consumer debt and attempted to collect that debt from Plaintiff.

12. The alleged debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.

13. Beginning in or around November 2011, and continuing through December 2011, Defendant constantly and continuously placed collection calls to Plaintiff on her home telephone seeking and demanding payment for an alleged debt.

14. Plaintiff received collection calls from the following numbers: (800) 477-1827 and (877) 273-3495, which the undersigned has confirmed are telephone numbers belonging to Defendant.

15. Defendant contacted Plaintiff, on average, one to two times a day in its attempts to collect a debt.

16. In its telephone calls to Plaintiff, Defendant failed to disclose the amount of the debt, to whom the debt was owed, or why it was contacting her.

17. Further, Defendant left pre-recorded messages on her home answering machine requesting a call back, but it did not disclose the name of the individual it was seeking to contact.

1 18. Most recently, Defendant contacted Plaintiff twice on December 15,  
2 2011.

3 19. Plaintiff is an eighty-seven year old woman.

4 20. It was inconvenient for her to receive debt collection calls on her  
5 home telephone.  
6

7 21. Defendant's sole purpose in contacting Plaintiff continuously and  
8 repeatedly on her home telephone was to harass and annoy her.  
9

10 22. Plaintiff disputes owing the debt.

11 23. Upon information and belief, Defendant failed to send Plaintiff  
12 written notification informing her of her rights to dispute the debt and/or request  
13 verification of the debt.  
14

15 24. Defendant conducted its debt collection activities in ways that were  
16 factually misrepresented and in violation of the FDCPA.  
17

### 18 CONSTRUCTION OF APPLICABLE LAW

19 25. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry,  
20 deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes  
21 strict liability, a consumer need not show intentional conduct by the debt collector  
22 to be entitled to damages." Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996);  
23 see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding  
24  
25



1 unintentional misrepresentation of debt collector's legal status violated FDCPA);  
2 Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

3  
4 26. The FDCPA is a remedial statute, and therefore must be construed  
5 liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235  
6 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts  
7 interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d  
8 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA)  
9 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be construed liberally in  
10 favor of the consumer." Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).

11  
12 27. The FDCPA is to be interpreted in accordance with the "least  
13 sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168  
14 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3<sup>rd</sup> Cir. 1991); Swanson v.  
15 Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA  
16 was not "made for the protection of experts, but for the public - that vast multitude  
17 which includes the ignorant, the unthinking, and the credulous, and the fact that a  
18 false statement may be obviously false to those who are trained and experienced  
19 does not change its character, nor take away its power to deceive others less  
20 experienced." Id. The least sophisticated consumer standard serves a dual  
21 purpose in that it ensures protection of all consumers, even naive and trusting,  
22 against deceptive collection practices, and protects collectors against liability for  
23  
24  
25



1 bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at  
2 1318.

3  
4 **COUNT I**  
5 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**  
6 **ACT**

7 28. Defendant violated the FDCPA based on the following:

8 a. Defendant violated §1692 generally;

9 b. Defendant violated §1692b(3) of the FDCPA when it  
10 communicated with Plaintiff more than once about another  
11 person's debt;

12 c. Defendant violated §1692c(a)(1) of the FDCPA when it  
13 communicated with Plaintiff at a time or place that it knew or  
14 should have known was inconvenient;

15 d. Defendant violated §1692d of the FDCPA by engaging in conduct  
16 the natural consequence of which is to harass, oppress, or abuse  
17 the Plaintiff in connection with the collection of a debt;

18 e. Defendant violated §1692d(5) of the FDCPA by causing a  
19 telephone to ring and engaging Plaintiff in telephone conversations  
20 repeatedly and continuously with the intent to annoy, abuse or  
21 harass; and

22 f. Defendant violated §1692g of the FDCPA by failing to send  
23  
24  
25

1 written notification, within five (5) days after its initial  
2 communication with Plaintiff, advising Plaintiff of her rights to  
3 dispute the debt or request verification of the debt.  
4

5 29. As a direct and proximate result of one or more or all of the statutory  
6 violations above, Plaintiff has suffered emotional distress.

7 WHEREFORE, Plaintiff, JEAN SCHRADER, respectfully requests  
8 judgment be entered against Defendant, NCO FINANCIAL SYSTEMS, INC., for  
9 the following:  
10

- 11 a. Declaratory judgment that Defendant's conduct violated the Fair  
12 Debt Collection Practices Act,  
13
- 14 b. Statutory damages pursuant to the Fair Debt Collection Practices  
15 Act, 15 U.S.C. § 1692k,  
16
- 17 c. Actual damages,  
18
- 19 d. Costs and reasonable attorneys' fees pursuant to the Fair Debt  
20 Collection Practices Act, 15 U.S.C. § 1692k  
21
- 22 e. Any other relief that this Honorable Court deems appropriate.  
23  
24  
25

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, JEAN SCHRADER, demands a jury trial in this case.

DATED: 12/30/11

RESPECTFULLY SUBMITTED,  
KIMMEL & SILVERMAN, P.C.

By: /s/ Craig Thor Kimmel  
Craig Thor Kimmel (CTK3654)  
Attorney ID # 57100  
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